



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

November 5, 2007

To the Honorable Senate and House of Representatives:

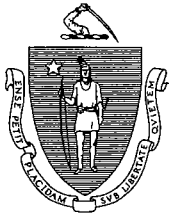
I am filing for your consideration, along with Senate President Therese Murray and House Speaker Salvatore DiMasi, the attached legislative proposal, entitled, "An Act Furthering the Biofuels Clean Energy Sector."

This bill will strengthen our clean energy sector and enable our universities and technology companies to continue leading the nation in biofuels development. This bill maximizes the Commonwealth's opportunity to grow our clean energy sector, play to our established strength in biotechnology and improve our environment in several ways. First, this bill establishes the first in the nation cellulosic ethanol tax exemption, and although cellulosic ethanol is not yet commercially available, this incentive will propel the intense research occurring in Massachusetts forward. Second, on a ramped timeline, this bill requires a minimum percentage of biodiesel as a component of diesel fuel sold in the Commonwealth. Finally, this initiative requires a minimum percentage of bioheat as a component of heating oil sold in the Commonwealth, also on a ramped timeline. In addition to ensuring clean energy and addressing the threat of climate change, this initiative has the potential to grow the biofuels sector of our clean energy industry by adding 3,000 jobs and \$320 million in the state economy.

This bill secures Massachusetts' leadership in cutting edge clean energy and clean fuels research and development, while protecting the environment and creating jobs. Accordingly, I urge your early and favorable consideration of this bill.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Deval Patrick", written over the words "Respectfully submitted,".



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND

SEVEN

AN ACT FURTHERING THE BIOFUELS CLEAN ENERGY SECTOR

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Subsection (l) of section 1 of chapter 64A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first sentence the following paragraphs:

Notwithstanding the prior sentence, for fuel consisting of a blend of gasoline and ethanol, the tax per gallon shall be reduced in proportion to the percentage of the fuel content, measured by volume, that consists of ethanol derived from cellulosic feedstocks grown in a sustainable manner.

Entities wishing to obtain the aforesaid tax reduction for cellulosic ethanol shall provide documentation satisfactory to the division of energy resources that such fuel is produced from feedstocks that are grown in a sustainable manner. The division shall promulgate regulations to effectuate the provisions of this subsection, provided, that for the purposes of this subsection, the term "sustainable manner" shall be consistent with the definition of sustainable as defined in this

chapter. The division, in consultation with the department of revenue, shall also promulgate regulations concerning the timing and form of documentation that will enable the department to determine the appropriate tax revenue to be collected.

SECTION 2. Chapter 64A as so appearing, is further amended by inserting after subsection (l) the following subsections:-

(m) “Ethanol”, the clear, colorless, flammable oxygenated hydrocarbon with the chemical formula C_2H_5OH , also known as ethyl alcohol or grain alcohol, that can be derived from biomass materials and used as a fuel to power motor vehicles.

(n) “Cellulosic feedstocks”, cellulosic plant material composed primarily of cellulose, hemicellulose and/or lignin, that can be converted into ethanol.

(o) “Sustainable”, the ability of a natural resource to yield a stable output of usable products indefinitely without causing significant damage to ecosystem health or pollution-control capacity.

(p) “Cellulosic fuel”, ethanol derived from cellulosic feedstocks grown in a sustainable manner.

SECTION 3. Chapter 94 is hereby amended by inserting after section 249H the following section:

Section 249H1/2. (1) As used in this subsection, the following terms shall have the following meanings:

“Biodiesel fuel”, a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats and meeting American society for testing and materials specification D6751 for biodiesel fuel (B100) blend stock for distillate fuels.

“BQ-9000”, the national biodiesel accreditation program for producers and marketers of biodiesel fuel, operated by the national biodiesel accreditation commission.

“Deputy Director”, the deputy director of the division of standards.

“Division”, the division of standards in the office of consumer affairs and business regulation.

“Feedstock(s)”, the raw material used to produce a fuel.

“Marketer”, an entity engaged in the business of the distribution and sale of biodiesel and/or biodiesel blends.

“Sustainable”, the ability of a natural resource to yield a stable output of usable products indefinitely without causing significant damage to ecosystem health or pollution-control capacity.

(2) All petroleum-distillate #2 fuel offered for sale to end-users, retail sellers, or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in residential, commercial, or industrial heating applications, must contain at least 2.0 percent biodiesel fuel by volume by July 1, 2010. All such fuel must contain at least 3.0 percent biodiesel fuel by volume by July 1, 2011, 4.0 percent biodiesel fuel by volume by July 1, 2012, and 5.0 percent biodiesel fuel by volume by July 1, 2013.

The division may delay these implementation dates based on its determination, in consultation with the division of energy resources, that providing sufficient supplies of the required biodiesel blends to end-use consumers is not feasible due to lack of supply, lack of blending facilities, or unreasonable cost. If the division delays implementation as provided in the preceding sentence, the deputy director of the division shall file a report within 30 days of such decision with the clerk of the Senate, the clerk of the House of Representatives, the House and Senate Committees

on Ways and Means, the Joint Committee on Telecommunications, Utilities and Energy, the Joint Committee on Environment, Natural Resources and Agriculture and the Joint Committee on Transportation explaining the reasons for any such decision to delay implementation.

(3) Manufacturers and wholesale distributors of biodiesel fuel doing business in the commonwealth shall furnish samples of such products to the division and permit the entry and inspection by the division of the premises of such manufacturers or distributors, and the inspection of biodiesel fuel stored thereon.

(4) Manufacturers and wholesale distributors of biodiesel fuel doing business in the commonwealth shall provide documentation satisfactory to the division that such fuel is produced from feedstocks that are grown in a sustainable manner. For purposes of this subsection, “sustainable manner” shall be determined by the division of energy resources pursuant to regulations it shall promulgate under sections 6(8) and 12 of chapter 25A, provided, that for the purposes of this subsection, the term “sustainable manner” shall be consistent with the definition of sustainable as defined in this chapter.

(5) Manufacturers of biodiesel fuel that is sold in the commonwealth must hold BQ-9000 accreditation, must submit documentation of this accreditation to the division by November 1, 2009, and must submit documentation to the division showing that their accreditation remains current every 2 years thereafter.

(6) The division shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for marketers of biodiesel fuel and petroleum-based motor fuel blended with biodiesel fuel operating in the commonwealth. If the division concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the division shall promulgate regulations to implement an accreditation requirement.

(7) The division shall promulgate regulations to implement the provisions of this subsection.

(8) No person shall sell or offer to sell in the commonwealth heating fuel, including biodiesel fuel, that does not conform to the provisions of this section.

(9) Notwithstanding any of the provisions of section 249H of this chapter, failure to comply with subsection (8) of this section shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.

SECTION 4. Chapter 94 is hereby amended by inserting after section 295G the following section:

Section 295G1/2. (1) As used in this section, the following words and terms shall have the following meanings:

“Biodiesel fuel”, a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats and meeting American society for testing and materials specification D6751 for biodiesel fuel (B100) blend stock for distillate fuels.

“BQ-9000”, the national biodiesel accreditation program for producers and marketers of biodiesel fuel, operated by the national biodiesel accreditation commission.

“Deputy Director”, the deputy director of the division of standards.

“Division”, the division of standards in the office of consumer affairs and business regulation.

“Feedstock(s)”, the raw material used to produce a fuel.

“Marketer”, an entity engaged in the business of the distribution and sale of biodiesel and/or biodiesel blends.

“Sustainable”, the ability of a natural resource to yield a stable output of usable products indefinitely without causing significant damage to ecosystem health or pollution-control capacity.

(2) All diesel motor fuel offered for sale to end-users, retail sellers, or to any other entity that will be providing diesel motor fuel directly to end-users in the commonwealth, must contain at least 2.0 percent biodiesel fuel by volume by July 1, 2010. All such diesel motor fuel must contain at least 3.0 percent biodiesel fuel by volume by July 1, 2011, 4.0 percent biodiesel fuel by volume by July 1, 2012, and 5.0 percent biodiesel fuel by volume by July 1, 2013.

The division may delay these implementation dates based on its determination, in consultation with the division of energy resources, that providing sufficient supplies of the required biodiesel blends to end-use consumers is not feasible due to a lack of supply, lack of blending facilities, or unreasonable cost. If the division delays implementation as provided in the preceding sentence, the deputy director of the division shall file a report within 30 days of such decision with the clerk of the Senate, the clerk of the House of Representatives, the House and Senate Committees on Ways and Means, the Joint Committee on Telecommunications, Utilities and Energy, the Joint Committee on Environment, Natural Resources and Agriculture and the Joint Committee on Transportation explaining the reasons for any such decision to delay implementation.

(3) Manufacturers and wholesale distributors of biodiesel fuel doing business in the commonwealth shall provide documentation satisfactory to the division that such fuel is produced from feedstocks that are grown in a sustainable manner. For purposes of this subsection, “sustainable manner” shall be determined by the division of energy resources pursuant to regulations it shall promulgate under sections 6(8) and 12 of chapter 25A, provided,

that for the purposes of this subsection, the term “sustainable manner” shall be consistent with the definition of sustainable as defined in this chapter.

(4) Manufacturers of biodiesel fuel that is sold in the commonwealth must hold BQ-9000 accreditation, must submit documentation of this accreditation to the division by November 1, 2009, and must submit documentation to the division showing that their accreditation remains current every 2 years thereafter.

(5) The division shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for marketers of biodiesel fuel and petroleum-based motor fuel blended with biodiesel fuel operating in the commonwealth. If the division concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the division shall promulgate regulations to implement an accreditation requirement.

(6) The division shall promulgate regulations to implement the provisions of this section.

(7) No person shall sell or offer to sell in the commonwealth motor fuel, including biodiesel fuel, that does not conform to the provisions of this section.

(8) Failure to comply with subsection (7) of this section shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.

SECTION 5. Sections 1 and 2 of this act shall be effective for tax years beginning on or after January 1, 2008 and before January 1, 2018.